

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of: **Vincent HERNETTE et al.**

Group Art Unit: **3683**

U.S. Appl. No.: **10/544,209**

Confirmation No.: **8497**

Filed: **January 12, 2006**

Examiner: **Nguyen, Xuan Lan T.**

For: **SYSTEM FOR CONTROLLING THE STATE AND OPERATION
OF A MOTOR VEHICLE**

Attorney Docket Number: **052731**

Customer Number: **38834**

PETITION UNDER 37 C.F.R. 1.181
FOR WITHDRAWAL OF FINALITY OF THE OFFICE ACTION dated November 1, 2007

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

March 14, 2008

Sir:

Applicants petition the Commissioner under 37 C.F.R. 1.181 for withdrawal of the finality of the Office Action dated November 1, 2007, so that Applicants may be given a fair opportunity to address the new rejections made in this Office Action. See 37 C.F.R. 1.104 and 1.111-1.113 and MPEP 706.07.

In the Office Action, it is alleged that the new art rejection was caused by a “drastic change” in the scope of claim 1 by amendment in the last response. However, the new rejection is not a result of the amendment to claim 1 in the last response, but it is a result of the previous rejection being overcome by antedating the reference used in that previous rejection.

Namely, the amendment in the last response changed “making it possible, in particular to [perform action 1], [perform action 2], [perform action 3], or [perform action 4]” to “so as to perform **at least one of** the following: (i)... (ii)... (iii)..., **and** (iv).” Since the original recitation used “or,” it is submitted that the scope of claim 1 before and after the amendment in the last

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response is unchanged, i.e., definitely not a “drastic change” in scope.

In addition, in the first Office Action, reference was made to paragraph [0014] of US20050173977 to Fischer (“Fischer”), which only discusses a “parking brake system,” and in particular, no action when the vehicle is moving. Thus, it is reasonably understood that in the previous Office Action, the last clause of claim 1 was being interpreted as reciting a choice between the various actions recited (i.e., “or”).

In summary, it is submitted that the new rejection is a result of the previous rejection (in the first Office Action) being overcome by antedating the Fischer reference cited in that Office Action. In such case, a second Office Action should not be final and the Applicant should be given a fair opportunity to address the rejections in a non-final Office Action.

In view of the above, it is submitted that the finality of the Office Action should be withdrawn.

If any additional fees are due in connection with this paper, please charge our Deposit Account No. 502759.

Respectfully submitted,

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